



UNITED STATES DEPARTMENT OF COMMERCE
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#18

In re Application of
Louis B. Rosenberg et al.
Serial No. 08/092,974
Filed: July 16, 1993
For: THREE-DIMENSIONAL MECHANICAL
MOUSE

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: DECISION ON PETITION
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This is a decision on the petition filed December 3, 1993, requesting that the above-identified application be accorded a filing date of July 16, 1993.

The application was deposited on July 16, 1993. However, on November 9, 1993, Application Division mailed a notice requiring a drawing of Figure 4 described in the specification and stating that the filing date would be the date of receipt of the omitted drawing.

Petitioners request that the application be accorded a filing date of July 16, 1993, the date the application was deposited in the Patent and Trademark Office without a drawing labeled Figure 4. Petitioners explain that the figure was not missing. Instead, the drawing figures were incorrectly labeled. In support, the present request is accompanied by a proposed amendment to the drawings wherein original Figures 3A, 3B and 3C are renumbered as Figures 3, 4B and 4A, respectively. A proposed amendment to the specification also deletes references to Figure 4 and inserts references to Figures 4A and 4B.

Since it is now clear that Figures 4A and 4B were present on July 16, 1993, albeit mislabeled, the application may be accorded that date as the filing date.

The petition is granted.

The requirement for a new oath or declaration made in the "Notice" mailed November 9, 1993, is hereby vacated.

However, the \$130.00 petition fee will not be refunded, since a petition was necessary to correct applicants' filing error.

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The application is being returned to Application Division for further processing with a filing date of July 16, 1993.



John F. Gonzales

Special Program Examiner

Office of the Assistant Commissioner for Patents

JFG